

AMENDED IN SENATE SEPTEMBER 4, 2007

AMENDED IN SENATE JULY 18, 2007

AMENDED IN SENATE JULY 3, 2007

AMENDED IN ASSEMBLY JUNE 5, 2007

AMENDED IN ASSEMBLY JUNE 1, 2007

AMENDED IN ASSEMBLY APRIL 18, 2007

AMENDED IN ASSEMBLY APRIL 9, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

## ASSEMBLY BILL

**No. 558**

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**Introduced by Assembly Member Feuer**  
**(Principal coauthors: Assembly Members Hernandez and Huffman)**

February 21, 2007

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~~An act to amend Section 25503.4 of, and to add Article 5 (commencing with Section 25547) to Chapter 6.95 of Division 20 of, the Health and Safety Code, relating to toxic chemicals, and making an appropriation therefor. An act to add Article 5 (commencing with Section 25547) to Chapter 6.95 of Division 20 of the Health and Safety Code, relating to chemical substances.~~

### LEGISLATIVE COUNSEL'S DIGEST

AB 558, as amended, Feuer. ~~Toxic chemicals: use reduction. Chemical substances: testing.~~

~~(1) Existing law authorizes the California Environmental Protection Agency (Cal-EPA) to request any business to submit the information required to be submitted in the toxic chemical release form pursuant to~~

~~the federal Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA). Existing law prohibits the Cal-EPA from requiring the form from certain businesses or in an amount lower than the applicable threshold amount specified in EPCRA.~~

*Existing law authorizes a state agency to request a manufacturer of a chemical to provide the state agency with specified information regarding the chemical, including an analytical test method for that chemical in a specified matrix, the octanol-water partition coefficient and bioconcentration factor for humans for the chemical, and other relevant information on the fate and transport of that chemical into the environment.*

~~The act would require the Office of Environmental Health Hazard Assessment to adopt by June 1, 2008, a reportable list of toxic or hazardous substances, based on specified state and federal listings, and to annually revise that list of reportable substances. The office would also be required, by June 1, 2009, to adopt, and annually revise, a high priority toxics list consisting of no fewer than 50 of the chemicals identified in the reportable toxic or hazardous substance list and to prioritize that list, as specified.~~

~~The bill would require the office to identify by January 1, 2009, the most accurate and effective methods to use to test for, and evaluate the potential hazard traits of chemical substances. The office would be required by July 1, 2010, to review and assess new and emerging testing methods for identifying hazard traits and to report to the Legislature, by July 1, 2010, regarding these testing methods. The office would *also* be required, by January 1, 2009, to develop and make available to the public an information matrix that compiles information regarding the hazard traits of chemical substances. The office would be required to annually review and revise those testing methods and the information matrix, and to annually report to the Governor and to the Legislature on the office's progress in identifying the testing methods and preparing the information matrix.~~

~~The act would require each large quantity toxics user, as defined, to provide an annual report to the Department of Toxic Substances Control for each toxic or hazardous substance manufactured, processed, or otherwise used at a facility, in amounts equal to, or exceeding, specified threshold amounts. By July 1, 2010, a large quantity toxics user would also be required to prepare and complete a toxics use reduction plan for each facility for which the toxics user is required to file a report for the previous calendar year. The large quantity toxics user would be~~

required to keep the toxic use reduction plan on the premises of the facility, to make the plan available to the department upon request, and to update the toxics use reduction plan no less than once every 2 years. The department would be required to adopt regulations to implement these provisions.

The act would require the department, by October 1, 2008, to prepare and distribute a survey to each business, in certain industries, that would require the business to provide information regarding each facility it owns or operates in the state, the full-time equivalent number of employees at that facility, and whether a listed substance is manufactured, processed, or otherwise used in a facility. A business would be required, by March 1, 2009, to complete the survey and return it to the department, accompanied by a specified fee. The chief executive officer of the business would be required to certify the completeness and accuracy of the returned survey under penalty of perjury, thereby imposing a state-mandated local program by creating a new crime.

The department would be required, by July 1, 2009, to determine the total mass of toxic and hazardous substances used in the state in the year 2008 and to adopt and approve, in a public hearing, a statewide toxic and hazardous substance baseline. The department would be required, by January 1, 2011, to adopt regulations to require a toxic user to implement toxic use reduction measures to achieve the maximum technologically feasible and cost-effective reductions in the use of toxic or hazardous substances.

The act would create, in the State Treasury, the Toxics Use Reduction Fund, which the department and the office would be authorized to expend, upon appropriation by the Legislature. The department would be required to adopt, in consultation with the office, by January 1, 2010, regulations to impose a toxics use reporting fee on a large quantity toxics user who uses a listed toxic or hazardous substance. The department would be required to set the amount of the fee based upon the reasonable cost of funding the administrative costs associated with the collection of toxics use data in the annual reports evaluating the completeness, efficiency, and sufficiency of the toxics use reduction plans, identifying testing methods, and developing the information matrix. The reporting fee could be expended only for those administrative costs and activities. A large toxics user who receives a notice from the department to pay a toxic use reporting fee would be required to remit the fee to the department within 90 days of receipt of the notice.

~~The bill would also require the department to establish a survey fee to be paid by a business required to submit a survey to the department. The fees could be expended only to review and analyze those surveys.~~

~~The act would create, in the State Treasury, the High Priority Toxics Technical Assistance and Research Fund, that the department would be authorized upon appropriation by the Legislature to expend only to provide technical assistance to, and research for, high priority toxics use reduction. The bill would require the department, by January 1, 2010, to adopt regulations to impose a high priority toxics use fee on high priority toxics users, based upon the reasonable cost of funding the technical assistance and research associated with assisting high priority toxics users to implement toxics use reduction strategies.~~

~~The act would require the department to provide technical assistance to high priority toxics users in implementing effective toxics use reduction, and in complying with the requirements of the act and to adopt regulations to implement this assistance.~~

~~The department would be required to establish a fee schedule specifying the amount of the fees authorized to be imposed to provide services under the act and would require the department to deposit those fees collected in the Toxics Use Reduction Fund, for expenditure by the department, upon appropriation by the Legislature, to only provide those services.~~

~~The bill would authorize the department to administratively impose civil penalties upon a person who violates the bill's provisions. The department would be required to deposit the penalties collected in the Toxics Use Reduction Fund, for expenditure by the department, upon appropriation by the Legislature, to enforce the bill.~~

~~The department and the office would be authorized to borrow funds, in the amount necessary to initiate the implementation of the bill's administrative and regulatory requirements, from the Toxic Substances Control Account, and would be continuously appropriated the borrowed funds for those purposes, thereby making an appropriation. The bill would require the borrowed funds to accrue interest, as specified, and would require the borrowed funds and interest thereon to be repaid to the Toxic Substances Control Account, from the fee revenues collected pursuant to the bill.~~

~~(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: ~~yes~~-no. Fiscal committee: yes.  
State-mandated local program: ~~yes~~-no.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Article 5 (commencing with Section 25547) is*  
2     *added to Chapter 6.95 of Division 20 of the Health and Safety*  
3     *Code, to read:*

4  
5             *Article 5. California Chemical Substances Act*  
6

7     25547. *This article shall be known and may be cited as the*  
8     *California Chemical Substances Act.*

9     25547.1. *The Legislature finds and declares all of the*  
10    *following:*

11    (a) *Toxic chemicals are inherently dangerous to the health and*  
12    *well-being of all Californians.*

13    (b) *Toxic chemicals entering the environment from chemical*  
14    *releases and leaching from discarded products harm the California*  
15    *environment and diminish productive economic sectors such as*  
16    *agriculture and tourism.*

17    (c) *The Environmental Protection Agency estimates that 600*  
18    *new hazardous waste sites will be added each month to the existing*  
19    *77,000 sites between now and 2033.*

20    (d) *Among children, chemical exposures are estimated to*  
21    *contribute to 100 percent of lead poisoning cases, 10 percent to*  
22    *35 percent of asthma cases, 2 percent to 10 percent of certain*  
23    *cancers, and 5 percent to 20 percent of behavioral disorders.*

24    (e) *Many toxic chemicals accumulate in the tissues of humans*  
25    *and other organisms, putting them at risk of the adverse effects of*  
26    *chronic, long-term exposure, such as cancer and reproductive*  
27    *problems.*

28    (f) *The people and businesses of the state require current,*  
29    *accurate information regarding the characteristics of chemicals*  
30    *and products that they use so that they can make informed*  
31    *decisions about the products they use and purchase.*

1 (g) *Advances in scientific knowledge provide opportunities to*  
2 *modernize methods used to test for potential hazards of chemicals*  
3 *to provide better information.*

4 (h) *It is important to consider all of the health end points that*  
5 *are relevant to the people of the state in the design and*  
6 *implementation of programs for toxic chemicals.*

7 25547.2. *For the purposes of this division, the following terms*  
8 *have the following meanings:*

9 (a) *“Bioaccumulative” means having a bioconcentration factor*  
10 *or bioaccumulation factor greater than or equal to 1,000, or if*  
11 *neither is available, having a logarithm octanol-water partition*  
12 *coefficient (log  $K_{ow}$ ) greater than, or equal to, five.*

13 (b) *“Hazard traits” means any of the following:*

14 (1) *Any of the following effects of a substance:*

15 (A) *Mutagenicity and genetic toxicity.*

16 (B) *Reproductive effects, including reduction in fertility and*  
17 *birth outcomes, including, but not limited to, birth weight.*

18 (C) *Developmental toxicity, including physical and metabolic*  
19 *birth defects that are present at birth or that manifest later, and*  
20 *effects on development of any kind, including, but not limited to,*  
21 *motor or cognitive effects that result from exposure at any point.*

22 (D) *Cancer.*

23 (E) *Immunological effects including allergic sensitization.*

24 (F) *Neurological and neurodevelopmental effects.*

25 (G) *Effects on organs such as the liver, kidney, eye, blood, and*  
26 *heart.*

27 (H) *Respiratory effects.*

28 (I) *Endocrine disruption.*

29 (J) *Other disruptions or perturbations of signaling and hormone*  
30 *systems.*

31 (2) *Any of the following attributes of a substance:*

32 (A) *Persistent and bioaccumulative.*

33 (B) *Very persistent.*

34 (C) *Very bioaccumulative.*

35 (c) *“Office” means the Office of Environmental Health Hazard*  
36 *Assessment.*

37 (d) *“Persistent” means having a half-life greater than, or equal*  
38 *to, 40 days in marine or freshwater, 60 days in soil or sediment,*  
39 *or two days in air.*

1 (e) "Very bioaccumulative" means having a bioconcentration  
2 factor or bioaccumulation factor greater than or equal to 5,000.

3 (f) "Very persistent" means having a half-life in soil or sediment  
4 of greater than 180 days, or a half-life greater than or equal to  
5 60 days in marine or freshwater with evidence of long-range  
6 transport.

7 25547.3. (a) On or before January 1, 2009, the office shall  
8 identify, through a review of the relevant scientific literature and  
9 the current practices of state, federal, and international agencies,  
10 the most accurate and effective methods of testing for and  
11 evaluating the potential hazard traits of chemical substances.

12 (b) The office may recommend a combination of testing methods  
13 for hazard traits, if the office deems that combination is necessary  
14 to provide the most accurate results.

15 (c) (1) On or before July 1, 2010, the office shall review new  
16 and emerging testing methods, including tools and assays, for the  
17 identification of hazard traits, including methods using structure  
18 activity relationships and other in silico computational and  
19 predictive toxicity approaches, high-throughput toxicity assays,  
20 and other testing methods.

21 (2) The office shall assess whether the testing methods reviewed  
22 pursuant to paragraph (1) provide accurate and effective tests for  
23 the health-related hazard traits and other adverse health effects.

24 (3) On or before July 1, 2010, based on the review and  
25 assessments conducted pursuant to paragraphs (1) and (2), the  
26 office shall report to the Legislature on the extent that new testing  
27 methods can serve as the basis for more efficient and rapid  
28 identification of chemical hazards when compounds in a class  
29 have been tested and there is insufficient information available on  
30 chemicals in a class.

31 (d) On or before January 1, 2009, the office shall develop and  
32 make available to the public an information matrix that compiles  
33 information known to the state regarding the hazard traits  
34 presented by chemical substances. The office shall design the  
35 presentation and characterization of the information matrix to be  
36 understandable to users of the matrix, including consumers and  
37 businesses. The information compiled in the information matrix  
38 shall include, but not be limited to, all of the following:

39 (1) The results of the hazard traits presented by each chemical  
40 substance, in a form that allows for comparison among substances,

1 *based to the degree feasible on the testing methods identified in*  
2 *subdivision (a).*

3 *(2) If a testing method has not been identified for a hazard trait*  
4 *pursuant to subdivision (a), or if data for that hazard trait does*  
5 *not yet exist, a notation that toxicity information for that particular*  
6 *hazard trait for that particular substance is unavailable and the*  
7 *reason that it is unavailable.*

8 *(3) An identification as to whether the substance is*  
9 *bioaccumulative, persistent, very bioaccumulative, or very*  
10 *persistent.*

11 *(e) (1) On or before January 1, 2010, and on or before January*  
12 *1, annually thereafter, the office shall review and revise the list of*  
13 *testing methods identified pursuant to subdivision (a) and the*  
14 *information matrix developed pursuant to subdivision (d).*

15 *(2) The office shall annually report to the Governor and to the*  
16 *Legislature on the office's progress in identifying the testing*  
17 *methods described in subdivision (a) and preparing the information*  
18 *matrix described in subdivision (d).*

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**All matter omitted in this version of the bill  
appears in the bill as amended in Senate,  
July 18, 2007 (JR11)**